

**EXHIBIT B**

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**HON. DAMON J. FALDOWSKI, (Ret.)**  
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August 29, 2018

Andrew G. Rothey, Esquire  
Rosen, Louik & Perry, P.C.  
The Frick Building  
Suite 200  
437 Grant Street  
Pittsburgh, PA 15219-6003

In Re: Shawn Lewis v. Mid Century Ins. Co.

Dear Mr. Rothey,

You have requested that I review various records to provide you with a value range of the claim of Shawn Lewis as a result of the injuries he sustained in the motor vehicle accident which occurred on October 22, 2013. My evaluation will neither address Mr. Lewis' past, present or future lost earnings nor his lost earning capacity due to his accident related injuries.

I have reviewed the following documents to arrive at my evaluation:

1. Moon Township Police Accident Report dated October 22, 2013
2. Weinstein Chiropractic Center office records-December 2, 2011 to April 18, 2012
3. UPMC Presbyterian Shadyside outpatient records-April 27, 2012 to May 15, 2012
4. Sewickley Valley Hospital Emergency Room records-October 22, 2013
5. Joan Bayuk, M.D. office record-October 29, 2013
6. Sewickley Valley Hospital Radiology records-November 5, 2013 to November 6, 2013
7. Edward W. Heinle, M.D. office records-November 6, 2013 to March

6, 2014

8. Signature Rehabilitation treatment records-November 11, 2013 to January 6, 2014
9. Accu Screen Report-December 10, 2013
10. Kelly J. Allen D.C. office records- March 7, 2014 to July 14, 2014
11. Advanced Pain Medicine office records-June 5, 2014 to May 18, 2015
12. West Hills Imaging Center MRI records-June 24, 2014 and June 25, 2014
13. Ashuin T. Ragoowansi, M.D. office record- December 23, 2014
14. Sewickley Valley Hospital Emergency Room records-December 15, 2014
15. Marc Adelsheimer, M.D. office record- January 5, 2015
16. Nova Care Rehabilitation treatment records-January 15, 2015 to May 22, 2015
17. Sewickley Valley Hospital Emergency Room record-March 24, 2015
18. Family Practice Associates of Hopewell office records-March 30, 2015 , June 9, 2015, October 6, 2016 and July 10, 2017
19. Pain Control Center of Pittsburgh treatment records-June 5, 2015 to March 2018
20. David Oliver-Smith, M.D. office records-July 7, 2015 to September 27, 2016; Narrative Report dated October 6, 2016
21. Sewickley Valley Hospital
  - EMG report - January 7, 2016
  - Radiology/Labs - March 3, 2016
  - Radiology/Labs - May 12, 2016
  - Labs - September 26, 2016
  - Radiology - September 27, 2016
22. Allegheny General Hospital

March 24, 2016 - March 26, 2016 Admission  
April 15, 2016 - Emergency Room  
April 25, 2016 - April 19, 2016 - Admission  
May 16, 2016 - Emergency Room

23. Ye Liang, M.D. office records-November 16, 2016 to October 17, 2017
24. Heritage Valley Health System, May 31, 2017 to June 5, 2017 - Admission

### **LIABILITY**

On October 22, 2013, Shawn D. Lewis, age 43, was a restrained driver of a 2005 Ram 350 vehicle which he was operating in a northerly direction on Flaugherty Run Road, Moon Township, he approached the stop sign at the intersection of Stoops Ferry Road. Once at the stop sign, he intended to proceed straight onto McGovern Boulevard. Upon arriving at the intersection, he brought his vehicle to a complete stop.

According to Patrolman P. Starko, investigating officer, Christina Knox was the operator of a stopped vehicle on McGovern Boulevard facing in the southerly direction. Directly behind the Knox vehicle was a 2002 Chevrolet Trail Blazer, operated by Angela L. Craft. Knox intended to make a left onto Stoops Ferry Road and therefore yielded the right-of-way to Lewis who was in the process of crossing Stoops Ferry Road. Knox informed Patrolman Starko that Craft traveled around the stopped Knox vehicle from the rear, proceeded into the southbound lane of McGovern Boulevard, and attempted to negotiate a left-hand turn onto Stoops Ferry Road, thereby failing to yield the right-of-way to Lewis who had control of the intersection. As a result of the actions of Angela Craft a collision occurred between the Craft and Lewis vehicles in the Lewis lane of travel.

Based upon the statements of the operators and witnesses, along with the damage to the vehicles, Patrolman Starko, determined that Angela Craft attempted an improper left turn and failed to yield the right-of-way to Shawn Lewis and was responsible for the motor vehicle accident of October 22, 2013.

### **DAMAGES**

According to Patrolman Starko, Shawn Lewis was injured in this accident, however, the severity of his injuries was not known. Later that day Lewis reported to the Emergency Room of Heritage Valley Sewickley Hospital complaining of neck and back pain. The Emergency room physician conducted an examination, which revealed muscle spasm, and ordered radiological studies of the thoracic and lumbar spines. She prescribed narcotic medication and instructed him to follow up with his primary care provider. The ER doctor attributed Mr. Lewis' injuries and her treatment to the subject

motor vehicle accident.

Mr. Lewis was seen by his family doctor, Dr. John Bayuk on October 29, 2013 with complaints of neck pain radiating into his trapezius and between his shoulders. He also complained of pain radiating into his "butt" cheek, more so on the right. Dr. Bayuk's diagnosis included cervical and lumbosacral strains for which he prescribed medication and referred him to Dr. Edward Heinle, a pain specialist with the Heritage Valley Medical Group.

Mr. Lewis treated with Dr. Heinle from November 6, 2013 until March 6, 2014. During this period of time, he continued to complain of neck, upper back and low back pain which prevented him from doing much of anything to include renovating homes which he purchased for resale. Dr. Heinle's impressions included cervical, thoracic and lumbar strains/sprains all of which resulted from the October 22, 2013 accident. His treatment consisted of physical therapy, along with the prescription of oxycodone and valium medications. Mr. Lewis was instructed not to lift more than 10 lbs. and to restrict the supervision of his employees to not more than four hours a day.

When his condition did not significantly improve, Dr. Heinle referred him to an interventional pain specialist for cervical epidural steroid injections, however, due to the requirement of secondary insurance he was not treated.

Dr. Heinle continued his regimen of treatment of physical therapy, narcotic medication, restriction of activity and home exercise, however, Mr. Lewis continued to experience symptoms, especially in the cervical spine. When last seen on March 6, 2014, he was referred to Chiropractor Kelly Allen, with whom he treated from March 7, 2014 until July 14, 2014.

After approximately three months of chiropractic treatment, Dr. Kelly felt that Mr. Lewis was only 20-25% improved and recommended that he return to a pain specialist for injections and pain management.

Mr. Lewis came under the care of Dr. Mark Lodico, of Advanced Pain Medicine, on June 5, 2014 with an eight month history of neck and low back pain following the October 23, 2013 motor vehicle accident. He described his pain as stabbing, despite taking narcotic medication and utilizing a TENS unit. Dr. Lodico's assessment was lumbar and cervical spinal pain for which he prescribed celebrex and oxycontin medications.

When the medications provided only moderate pain relief, Dr. Lodico ordered an MRI of the cervical and lumbar spines which revealed small bulges at C3-4, C4-5 and C5-6 with a large disc protrusion at C6-7 and small to moderate bulges at L2-3, L3-4 and L4-5. Mr. Lewis received epidural steroid injections at C-5-6 which provided temporary relief. Dr. Lodico performed five cervical facet nerve blocks between November 2014 and January 2015 which provided temporary relief. As a result, he

performed a cervical facet Rhizotomy at C3, C4, C5 and C6 on February 19, 2015 and it provided 40% pain relief but he continued to experience numbness. A left lumbar facet nerve block provided 50% of pain relief. As a result of his continued cervical pain, Mr. Lewis underwent another Rhizotomy on May 12, 2015, but it only provided 40% pain relief.

During the period of Dr. Lodico's treatment, June 5, 2015 to May 18, 2015, he administered the epidural steroid injections, facet nerve blocks and performed the rhizotomies, along with prescribing medication in an attempt to lessen the pain and numbness. These modalities of treatment provided only temporary relief.

It should be noted that on December 15, 2014, Mr. Lewis presented to the Sewickley Valley Hospital Emergency Room complaining of increased neck pain with mild tingling down his right arm after loading garbage into a dumpster. He denied pain in the extremities and no strength change. The examination revealed minimal tenderness along the cervical and upper thoracic spines. The main area of tenderness was in the right trapezius. The doctor's impression was an acute cervical strain caused by sleeping wrong or lifting the garbage. He was prescribed pain mediation and muscle relaxants and it was felt that he would be better in a few days. He was also instructed to follow-up with his pain specialist who he was to see later that week.

Mr. Lewis was seen by Dr. Ashvin Ragoowansi, a neurosurgeon, on December 23, 2014 for evaluation of the neck pain. Dr. Ragoowansi, upon examination, found pain radiating into his scapula on the right with extension of the neck. His impressions included degenerative changes and degenerative disease of the cervical and lumbar spines. He did not recommend neurosurgical intervention but recommended he be seen by a physiatrist. He saw Dr. Marc Adelsheimer, a rehabilitation pain specialist, on January 5, 2015 and his diagnosis included cervical strain/sprain and cervical degenerative disc disease for which he recommenced a home exercise program and physical therapy.

Mr. Lewis underwent physical therapy from January 15, 2015 through May 22, 2015 and again he experienced only minimal relief.

On June 5, 2015 he came under the care of Dr. Gerald Myers of the Pain Control Center of Pittsburgh, for complaints of neck pain radiating down the right upper extremity and low back. He described his pain as achy, throbbing, shooting, gnawing, sharp, burning, penetrating, nagging and miserable which is a constant daily event, lasting more than 12 hours a day. He was awakened by the pain several times per night and averaged 1 ½ - 2 hours of sleep per night. Although medication lessened the pain, working, looking down and sneezing aggravate the pain. He noted that he gained 40 pounds since the pain began.

After conducting an examination, Dr. Myers' impressions included: degenerative disc disease of the cervical spine, cervical spine stenosis, occipital neuroglia and

lumbar facet arthropathy. The treatment plan included a change of medication, additional radiological studies, injection therapy and a referral to Dr. David Oliver-Smith for evaluation of the cervical and lumbar spine.

The cervical MRI taken on June 30, 2015, showed disc bulges at C3-4, C4-5 and C5-6, with a moderately large disc protrusion at C6-7. Dr. Oliver-Smith, after his examination and review of the MRI, on July 7, 2015 recommended continued conservative treatment.

At the October 16, 2015 appointment with Dr. Oliver-Smith, Mr. Lewis had complaints of numbness and tingling in his hands and feet without any injury. Dr. Oliver-Smith made a diagnosis of occipital neuralgia and ordered another cervical MRI to determine if there was spinal cord impingement. The October 20, 2015 MRI showed questionable cord impingement. Dr. Oliver-Smith's assessment was continued cervicalgia, with bilateral cervical radiculopathy as well as occipital neuralgia. He believed there was possible spinal cord impingement from stenosis at C5-6 and C6-7 and recommenced performing an anterior cervical discectomy, fusion and plating which were performed on March 24, 2016.

According to the Operative Report, there was a small central to right sided disc herniation at C5-6 and multiple herniated disc fragments at C6-7. Initially, the surgery was successful but Mr. Lewis developed a hematoma which caused swallowing difficulties and hoarseness.

On April 15, 2016 Mr. Lewis complained of increased symptoms to include pressure in the chest and pain in the anterior neck. He was diagnosed with a wound infection and was admitted to Allegheny General Hospital where Dr. Oliver-Smith performed an exploration and debridement of the infected wound. He was administered antibiotics for the next eight weeks and received in home nursing care. When seen on September 27, 2016, six months post-surgery, Mr. Lewis complained of posterior neck pain, with a tight feeling in the neck. He was also experiencing tingling in his hands. Dr. Oliver-Smith was of the opinion that although he had recovered reasonably well from the surgery, he was very debilitated by his neck pain. Consequently, he recommended wrist splints at night, cervical physical therapy and continue under the care of Dr. Myers at the Pain Control Center of Pittsburgh.

Mr. Lewis has continued under the care of Dr. Myers for complaints of neck and low back pain. He has received conservative care consisting of medication, occipital nerve blocks and botox injections. According to the last office record provided to me, when seen on March 2, 2018, Mr. Lewis continued to complain of neck pain which he described as dull, electrical, achy, stabbing and constant that effects his activities of daily living. Dr. Myers impressions include: occipital neuralgia, degenerative disc disease of the cervical spine, lumbar facet arthropathy and failed cervical spine surgery. The plan of treatment was to continue percocet and motrin medications.

Dr. Oliver-Smith authored a narrative report dated October 6, 2016 wherein he opined that Mr. Lewis' complaints, his treatment from October 22, 2013 were due to the motor vehicle collision of October 22, 2013. He further stated that Mr. Lewis' permanent accident related injuries include: chronic neck pain, swallowing difficulties and a 15% increased likelihood of developing problems at adjacent levels to his spinal surgery , along with recurrent infections requiring surgical intervention. The permanent injuries, according to Dr. Oliver-Smith, will result in permanent limitations on his normal activities.

In addition to the physical accident related injuries, Mr. Lewis also experienced psychological injuries due to the October 22, 2013 motor vehicle collision.

On March 24, 2015, he reported to Sewickley Valley Hospital with a three month history of anxiety, palpitations and panic attacks. He was diagnosed with anxiety, given Ativan and instructed to see a primary care provider.

He was seen by Dr. John Bayuk on March 30, 2015 and his assessment was anxiety. Mr. Lewis was instructed to take Cymbalta medication.

When seen by Dr. James Priola on June 9, 2015 he related that he was depressed because he couldn't work. Dr. Priola's assessment included chronic pain and depression for which he instructed Mr. Lewis to continue Cymbalta and gabapentin medications. He reported difficulty sleeping and was prescribed Ambien.

On May 3, 2017, Mr. Lewis appeared at the Emergency Room of Heritage Valley Hospital - Beaver complaining of left sided chest discomfort and significant stress due to chronic back pain and financial problems. He related that he was prescribed Cymbalta but it caused significant weight gain. He admitted to suicidal ideation with a plan. During the evaluation he exhibited a depressed affect and was tearful. The psychiatrist recommended admission and Mr. Lewis signed a 201 commitment for depression. He remained an inpatient until June 5, 2017 with a discharge diagnosis of Major Depressive Disorder, single episode. He was prescribed percocet and Effexor and instructed to follow-up with his primary care physician and psychiatrist.

It should be noted that Dr. Oliver-Smith, in his October 6, 2016 narrative report, causally relates Mr. Lewis' psychological issues of depression and anxiety to the motor vehicle accident.

### **PRIOR MEDICAL TREATMENT**

Prior to the motor vehicle accident of October 22, 2013, Shawn Lewis received treatment for complaints of pain between his shoulders radiating into his neck and low back along with numbness in his feet when sitting in a car for a long time. He received chiropractic treatment which consisted of spinal manipulation and traction for the period from December 2, 2011 to April 18, 2012 at which time his prognosis was



described as fair.

Mr. Lewis reported to the UPMC Presbyterian Shadyside Hospital on April 27, 2012 with complaints of neck and back pain. He gave a history of an auto accident which occurred on February 11, 2012. Radiographs of the lumbar spine revealed mild degenerative facet arthropathy but no evidence of dynamic instability. Films of the cervical spine revealed slight reversal of the normal cervical lordosis and mild degenerative disc disease at C6-7. The diagnosis included cervical spondylosis, neck pain and back pain. There wasn't any record of treatment.

On May 15, 2012, Mr. Lewis returned to UPMC Presbyterian Shadyside with complaints of neck pain and arm numbness. Clinical examination of the upper extremities revealed diffusely hypoactive reflexes, no weakness or sensory loss, and negative tinel's sign over the median and ulnar nerves. Nerve conduction studies were normal. An MRI of the cervical spine, without contrast, revealed multilevel mild degenerative changes most prominent at the C6-7 level. There isn't any record of treatment or follow-up care.

The fact that Mr. Lewis did not receive treatment, testing or had radiographic studies relative to his neck or low back for 17 months prior to the subject accident, would confirm that he was fully functional in performing his daily activities. Any complaints, treatment and disabilities subsequent to October 22, 2013, were due to the subject collision.

### **JANUARY 2014 AUTO INCIDENT**

Shawn Lewis was seen by Dr. Edward Heinle on January 30, 2014 for complaints of ongoing neck and lower back pain following the October 22, 2013 accident. He reported an increase of cervical pain after being a restrained passenger in a motor incident when the driver had to stop suddenly in order to avoid a collision. I assume this was not an accident since there was not any report of impact with another vehicle or within the car he was riding.

According to the January 16, 2014 office note of Dr. Heinle, Mr. Lewis presented with ongoing neck, back and low back pain which he attributed to the October 22, 2013 accident. He did not have any upper extremity radicular symptoms. The exam revealed full range of motion of the cervical spine and there wasn't any palpable muscle spasm in the cervical paraspinal musculature. Dr. Heinle's impression included cervical, thoracic and lumbar sacral strains/sprains which he attributed to the October 22, 2013 collision. Treatment included oxycodone, diazepam and ibuprofen along with physical therapy.

At the January 30, 2014 office visit, Mr. Lewis complained of an increase in his cervical pain. He was still working as a supervisor. Dr. Heinle's exam revealed a near full range of motion of the cervical spine and no palpable muscle spasm. His impression was the same as January 16, 2014, cervical, thoracic and lumbar sacral

strains/sprains due to the October 22, 2013 accident. He diagnosed neither an aggravation of his pre-existing condition nor a new injury. His treatment plan was also the same as January 16, 2014.

There isn't any question that this incident did not have any effect on the October 22, 2013 collision injuries because the only change in his symptoms from the previous office visit with Dr. Heinle on January 16, 2014, was an increase in cervical pain and there was no change in treatment.

### **DECEMBER 14, 2014 INCIDENT**

On December 15, 2014, Shawn Lewis reported to the emergency room of Heritage Valley Sewickley with a complaint of mild tingling down his right arm, neck and upper back pain following an incident when he loaded garbage into a dumpster. The examination revealed minimal tenderness in the cervical and upper thoracic spines. There wasn't a complaint of pain in the upper extremities, where the strength was reported intact. His main area of tenderness was in the right trapezius. Radiological studies of the cervical spine were unchanged from previous studies.

The emergency room physician's clinical impression was acute cervical strain. He was prescribed valium, percocet and neurontin medications and instructed to follow-up with his primary care physician.

It should be noted that he had been under the care of the Dr. Mark Lodico since June 5, 2014 for treatment of his neck and low back complaints. Dr. Lodico's treatment consisted of medication, cervical facet blocks and epidural steroid injections. He was seen by Dr. Lodico on December 5, 2014, one week before the dumpster incident, and Neurontin was added to his medication regiment. He was instructed to return for a diagnostic cervical facet block.

He saw Dr. Lodico on December 18, 2014 at which time the complaints remained the same as on the previous office visit and the facet nerve block was administered.

Mr. Lewis' symptoms prior to the December 14, 2014 dumpster incident were essentially the same as those which he complained of at the December 15, 2014 emergency room visit and for which he received treatment by Dr. Lodico on December 18, 2014. Consequently, in my opinion, the dumpster incident did not have any effect on the injuries he sustained in the motor vehicle accident of October 22, 2013.

### **CONCLUSION**

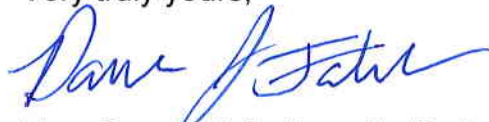
According to the eyewitness statements of the operators at the accident scene, along with Patrolman Starko's investigation, the cause of the October 22, 2013 motor vehicle accident was Angela L. Craft's negligent operation of her motor vehicle.

As a result of this collision, Shawn Lewis sustained physical injuries to his neck and low back and psychological trauma. Treatment of these injuries consisted of medication, physical therapy, chiropractic, epidural steroid injections, facet nerve blocks, rhizotomies, cervical discectomy and fusion surgery. Please also note that subsequent to Mr. Lewis's cervical fusion surgery, he developed a wound infection which required a second procedure to explore and debride the wound followed by antibiotic treatment. Dr. David R. Oliver-Smith has stated that the injuries and treatment of these conditions are causally related to the motor vehicle accident of October 22, 2013. Dr. Oliver-Smith has also opined that Mr. Lewis will have chronic neck pain, swallowing difficulties, psychological issues including anxiety and depression, which are permanent in nature. Mr. Lewis, in Dr. Oliver's opinion, is at a 15% increased likelihood of problems at adjacent levels to the spinal surgery which will require surgery in the future, along with being at an increased risk of infection. In addition, Dr. Oliver-Smith believes that the permanent restrictions will have a negative impact on Mr. Lewis' ability to perform any physical labor, especially heavy physical labor.

Based upon the facts and circumstances surrounding this accident, the nature and extent of Mr. Lewis' accident related injuries, and their permanency, along with his age, it is my opinion that the value range of this case is between \$350,000.00 and \$500,000.00. Of course, any damages attributable to wage loss or diminished earning capacity, which I have not been asked to assess, would be in addition to this valuation.

All of my opinions are stated within a reasonable degree of legal certainty.

Very truly yours,



Hon. Damon J. Faldowski, (Ret.)